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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,082	05/24/2001	Yoshitsugu Araki	Q64550	1799
7590	02/23/2004		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			TRAN, THANG V	
			ART UNIT	PAPER NUMBER
			2653	
			DATE MAILED: 02/23/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/864,082

**Applicant(s)**

ARAKI ET AL.

**Examiner**

Thang V. Tran

**Art Unit**

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,5,7,10 and 11 is/are rejected.
- 7) Claim(s) 2,4,6,8,9 and 12 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 5, 7, 10 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagata et al. (US 6,456,584).

Nagata et al., according to Figs. 1-9, show a recording medium and a recording apparatus for the recording medium comprising all features as recited in the instant claimed invention as interpreted as below.

Regarding claims 1 and 5, see a multi-layer recording medium in Fig. 1, 2 or 3 in which a light beam (see Fig. 5) is transmitted through one recording layer (layer 2) and at the same time the light beam is irradiated to another recording layer (layer 4) thereby to record data signal, wherein a dummy signal is recorded on the first recording layer prior to recording of the data signal on the other recording layer (see column 14, line 9 through column 16, line 20).

Regarding claims 3 and 7, column 14, lines 12-21 for the limitation of a pulse train (pre-recorded marks) of the dummy signal and the transmittance of the recording layer related to the recorded dummy signal as recited in these claims.

Regarding claim 10, see Figs. 1-9 which show a multi-layer recording medium in which a light beam (see Fig. 5) is transmitted through one recording layer (layer 2) and at the same time the light beam is irradiated to another recording layer (layer 4) thereby to record data signal, and

wherein the other recording layer (layer 4) is initialized based on a first initializing condition (by recording signals in the second information layer), the one recording layer (layer 2) is initialized based on a second initializing condition (by recording a dummy signal is on the first recording layer), and wherein the initialization of the one recording layer (layer 2) by recording dummy signal thereon is performed so that a transmittance of the recording layer is approximately equal to a transmittance of the recording after a predetermined data signal is recorded (see column 14, lines 12-21 ).

Regarding claim 11, see dummy data recorded on layer (2) as disclosed in column 14, lines 12-21.

***Allowable Subject Matter***

3. Claims 2, 4, 6, 8, 9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 4, 6, 8, 9 and 12 are allowable over the prior art of record because the prior art of record, considered in combination or individually, fails to suggest or fairly teach a multiplayer recording medium, a recording apparatus or a recording method including all features related to a frequency of a dummy signal as recited in each of claims 2, 6 and 12, or all features as recited in claim 9. Claims 4 and 8 are allowable with their respective parent claim.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (703) 308-1551. The examiner can normally be reached on Tuesday to Friday, from 7:30AM to 6:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thang V. Tran  
Primary Examiner  
Art Unit 2653